

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6428 of 1986

Date of decision: 18-2-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PADMANABHAN PADIAL NAMBIAR

Versus

COMMANDANT

Appearance:

MR JR NANAVATI for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/02/98

ORAL JUDGEMENT

Heard the learned counsel for the petitioner. In this special civil application the petitioner, a police constable of Police Department of the State of Gujarat, prayed for quashing and setting aside the charge sheet dated 5th November, 1986 issued by the respondent. On 19th December, 1986 this petition was admitted and notice as to interim relief was issued, returnable on 30th December, 1986. On 8th February 1987 this Court granted interim relief in favour of the petitioner in terms of para 11(B), which reads as under:

"To issue an injunction restraining the respondent from instituting any inquiry against the petitioner in pursuance of the Memo of charges dated 5th November, 1986 (annexure-B) issued by the respondent"

This interim relief was ordered to be extended from time to time. Ultimately on 10-10-1988 the interim relief was vacated.

2. Petitioner filed civil application No.1892 of 1992 before this Court and prayer has been made for giving him difference of salary for the period from 10th November, 1981 to 3rd March, 1985 on account of his suspension period and also to pay him the difference of salary from 27th April, 1983 to 3rd March, 1985. In that civil application the petitioner stated the fact that the inquiry has been completed in the matter and under order dated 31st August, 1989 the petitioner has been given penalty. Against the order of penalty the petitioner filed appeal before the Deputy Inspector General of Police, Gujarat State, Ahmedabad, who allowed the appeal vide order dated 12th September, 1990 and set aside the order of punishment dated 31st August, 1989. So in view of the fact that the inquiry has been completed and even appeal against the penalty order has been decided, nothing now survives in this special civil application and in fact it has become infructuous. Whatever grievance made by the petitioner in the civil application cannot be made subject matter of this special civil application. Prayers in civil application can only be consequential or incidental to the prayers made in the special civil application. By filing civil application the petitioner cannot be permitted to enlarge the scope of the special civil application itself and the prayers cannot be there to the extent of what it has not been prayed in the special civil application.

3. In the result, in view of the subsequent

developments which has taken place, this special civil application has become infructuous and the same is dismissed. Rule discharged. No order as to costs.

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